IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 981 OF 2007

Babasaheb Shankar Kashid ..Petitioner

Vs.

Sou. Rani Babasaheb Kashid and anr. ..Respondents

Mr. S.G. Kudle for petitioner.
Mr. P.A. Pol, APP for State.
Mr. Satyajeet Ligade for respondent no.3.

CORAM: B.H. MARLAPALLE, J.

Date : October 05, 2007.

P.C.:

1. Heard Mr. Kudle the learned counsel for the petitioner-husband. Mr. Ligade appears for the respondent no.3 - Soot Girni who was subsequently added and the learned APP appears for the State. The respondent no.1-wife has been served as per the Bailiff report and she has chosen not to file her appearance.

2. The respondent no.1-wife has filed Misc. Application No.101 of 2001 before the learned JMFC at

Sangola, District Solapur claiming maintenance under Section 125 of Cr.P.C. and in the said proceedings an application at Exh.104 was filed by the present petitioner-husband for issuing summons to the Managing Director of Mahila Setkari Sahakari Soot Girni so as to produce the salary details of the applicant-wife. In short, it was stated by the husband that the applicant-wife has been employed under the said Soot Girni and she was getting regular monthly salary and the same evidence was required to be brought on record. This application came to be rejected by the learned JMFC on 14/3/2007 mainly on the grounds that while partly allowing the application at Exh.75, the prayer made to issue witness summons to the Managing Director of Soot Girni was rejected and thereafter he had filed an application at Exh.87 for amendment in his say which was also rejected. Criminal Revision Application No. 38 of 2000 was also rejected by the Additional Sessions Judge, Pandharpur as not maintainable and thereafter at Exh.98 an application was filed by the husband which was also rejected on 15/11/2006.

3. As noted earlier, the respondent no.3 - Soot Girni was allowed to be impleaded by amendment in this writ petition and Mr. Ligade the learned counsel for the said Soot Girni has placed on record the salary details of the claimant-wife from 1/4/2005 to July 2007 and it is clear from the same that the claimant-wife has been employed initially as a trainee and subsequently as a Badli Worker by the respondent no.3.

4. The salary details placed by the respondent no.3 - Soot Girni on record are certainly relevant for deciding the maintenance application submitted by the wife before the learned JMFC. Inspite of service of notice, the applicant-wife has failed to appear before this court either in person or through an advocate and at the same time the evidence placed on record on behalf of respondent no.3 cannot be brushed aside and it would be one of the relevant circumstances either for deciding the application or for fixing the amount of maintenance.

5. Hence, it is directed that the salary

certificate, as placed on record by the respondent no.3 - Soot Girni and marked as "X" shall be allowed to be placed on record in Misc. Application No. 101 of 2001 and the same evidence shall be taken into consideration by the learned JMFC while deciding the said application finally.

6. The petition is disposed off in terms of the above directions. Ad-interim order stands vacated. Misc. Application No. 101 of 2001 is hereby expedited. Writ along with the salary certificate placed on record by the respondent no.3 and marked "X" shall go to the trial court forthwith.

(B.H. Marlapalle,J.)